

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS

3 PRO SE LITIGANT JOSE MARIA)
4 DeCASTRO, also known as Chille)
5 DeCastro, also known as Delete)
6 Lawz,)
7) CA No. 22-11421-ADB
8 Plaintiff) Pages 1 - 12
9)
10)
11 -VS-)
12)
13 JOSHUA ABRAMS, also known as)
14 Accountability for All, et al,)
15)
16 Defendants)

17 **HEARING BY TELEPHONE**

18 BEFORE THE HONORABLE PATTI B. SARIS
19 UNITED STATES DISTRICT JUDGE
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21
22

23 United States District Court
24 1 Courthouse Way
25 Boston, Massachusetts 02210
October 18, 2022, 4:05 p.m.

26 LEE A. MARZILLI
27 OFFICIAL COURT REPORTER
28 United States District Court
29 1 Courthouse Way, Room 7200
30 Boston, MA 02210
31 leemarz@aol.com

1 A P P E A R A N C E S:

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3 BENJAMIN J. WISH, ESQ., Todd & Weld LLP,
4 One Federal Street, 27th Floor, Boston, Massachusetts, 02110,
5 for the Defendants.
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P R O C E E D I N G S

THE COURT: I'm on now.

THE CLERK: Okay, Judge, great. So I have Lee, and I have defense counsel and Attorney Wish's client. If you'd like, I can call the case.

THE COURT: Thank you.

THE CLERK: The Court calls Civil Action 22-CV-11421-ADB, a Judge Burroughs case, DeCastro v. Abrams, et al. Could counsel please identify themselves.

04:06 10 MR. WISH: Good afternoon, your Honor. Benjamin Wish
11 on behalf of defendant Kate Peter.

12 THE COURT: All right. And is Mr. DeCastro on the
13 line? Could you speak up, sir, if you are?

14 MR. WISH: Your Honor, this is Mr. Wish.

15 THE COURT: This is being transcribed, but I did not
16 hear a response whether he's on the line or not.

17 Go ahead, Mr. Wish. I'm sorry.

18 MR. WISH: I actually just spoke with Mr. DeCastro
19 immediately before this call, and he informed me that he would
04:07 20 not be attending this hearing. His position was that he did
21 not receive notice of the hearing. I note that the ECF order
22 provides an email that apparently he provided to the court. I
23 also emailed the court's ordered email with which I have been
24 corresponding with him, and I also on the phone about ten
25 minutes ago spoke with him about this hearing and told him if

1 he didn't have it, I was happy again to provide him information
2 for the dial-in.

3 THE COURT: Right. So he says that he hadn't received
4 notice?

5 MR. WISH: That's right. His position is that he be
6 mailed everything by certified mail or it's not proper notice,
7 at least his position as he explained to me about ten minutes
8 ago.

9 THE COURT: Could the Court Clerk please put on the
04:08 10 record how we notified him.

11 THE CLERK: Sure. I'm looking at the docket now. I
12 did an electronic entry, and it's Docket No. 17, and the docket
13 text is "Electronic order granting the defendant's emergency
14 motion for a status hearing." And on that, it says "Status
15 hearing is set for today, 10/18/2022, by phone, 4:00 p.m.
16 Eastern Standard. All parties shall call the following
17 telephone number," and it's listed on the docket. And below
18 that, it's generated automatically on the docket as an ECF
19 electronic notice which says, "Notice has been electronically
04:08 20 mailed to: Attorney Wish," and your email address that's on
21 the docket, and Attorney Dolson at Todd & Weld also, and below
22 that is Jose Maria DeCastro, email address iamalaskan@gmail.com,
23 and it says that the notice has been electronically emailed to
24 the above.

25 THE COURT: So that's the one that's on the docket?

1 THE CLERK: Yes.

2 THE COURT: Okay. Well, here's the thing. I've
3 read -- let me start from the beginning. I'm the emergency
4 judge today, and the judge who's assigned this case isn't able
5 to handle the case today. However, we have received another
6 date where she will be able to handle the proceedings, and that
7 will be -- you gave it to me -- October -- when was it,
8 October --

9 THE CLERK: I'll confirm this right now. I have the
04:09 10 email from the docket clerk, and Judge Burroughs is setting
11 this up for Monday, October 24 at 12:00 p.m. by a remote
12 proceeding. And that will go on the docket, not by me but it
13 will go on by the docket clerk for Judge Burroughs.

14 THE COURT: Mr. Wish, is there anyone else who wishes
15 to identify themselves for the record at this point?

16 MR. WISH: Also present on the call is the defendant,
17 Kate Peter. I note that I heard before I believe you joined,
18 there are four other people on the call who haven't identified
19 themselves.

04:10 20 THE COURT: Well, some of them -- well, I don't know
21 that they -- in any event --

22 MR. WISH: Other than the court reporter.

23 THE COURT: Yes. So here's the thing: I've read a
24 lot of emails that have been forwarded to me, both by you and
25 another gentleman who's not a party to this case. I don't know

1 if he's on right now, but I cannot yet have a motion reported
2 by affidavit. I'm assuming at some point you will want a cease
3 and desist order or some such equitable relief, based on what
4 I've read, but I do not yet have the record to do that.

5 So this has been scheduled before Judge Burroughs, so
6 what I wanted to do was to make sure that the matter was fully
7 joined in front of her. When could you -- well, let me first
8 ask, do you want to file such a request for an injunctive order
9 or a cease and desist or some such?

04:11 10 MR. WISH: Yes, your Honor, I think we'd like to
11 just... But certainly we're happy and ready, willing, and able
12 to put those papers together, including a factual record for
13 the Monday hearing before Judge Burroughs.

14 THE COURT: When do you think you could do that by?

15 MR. WISH: I would need to confer with my client, but
16 I expect we could do it by late on Thursday.

17 THE COURT: Fine. And then you will send it directly
18 to Mr. DeCastro, who would have an opportunity to respond --
19 although I'm trying to think what's the fair thing -- maybe
04:12 20 by -- so he could only have Friday which is the weekday. Maybe
21 respond by -- I'm trying to think what would make the most
22 sense. If you didn't file it till Thursday, perhaps I could
23 give him till Monday at 9:00? I'm not quite sure what seems
24 fair. But, in any event, you will file yours by then, and then
25 why don't I say, Maryellen --

1 THE CLERK: By Wednesday, Judge, or forthwith?

2 THE COURT: Why don't I say for the defendants, you
3 file something by Thursday at noon, and then he'll --

4 THE CLERK: That's 10/20.

5 THE COURT: Yes, 10/20.

6 THE CLERK: At noon.

7 THE COURT: At noon. And then we will give him till
8 Monday morning, which would be 10/24 at 9:00. I don't know how
9 else to do this.

04:13 10 MR. WISH: Your Honor, for our issues, I'm happy to do
11 that. That makes total sense, and I will do our best to get
12 you something. I understand that the third party, Todd Lyons,
13 is on the call, and I believe for his issue, there's -- and I
14 don't have my arms wrapped around the facts because it's not my
15 client's issue, it's his -- that there may be a video published
16 tonight.

17 THE COURT: There's nothing I can do. I can't do
18 anything without a record. I saw an email. I have nothing
19 under oath. I'm not even sure that Mr. DeCastro received this.
04:14 20 I can't do anything about it. I have no record here.

21 MR. WISH: Your Honor, again, this isn't my client,
22 but would it work to have an affidavit from Mr. Lyon, you know,
23 a brief affidavit attesting to the authenticity of the text
24 messages?

25 THE COURT: We would have to have a file a motion --

1 MR. WISH: I get it.

2 THE COURT: -- for an order and have me get this all
3 resolved by tonight? I mean, I --

4 MR. WISH: Again, this isn't my --

5 THE COURT: He's not even a party to this matter.

6 MR. WISH: I get it completely. This isn't my fight,
7 but I just am trying to --

8 THE COURT: I mean, I understand, but reading it, he's
9 already said that he has -- I mean, I've read his materials,
04:15 10 and he already said he complied with whatever Mr. DeCastro
11 wanted him to do, so --

12 MR. LYON: If it helps your Honor, I'm actually on the
13 call, if you'd like me to speak.

14 THE COURT: I did read the troubling emails that were
15 sent, but right now you're not a party to the suit. I have no
16 affidavit. I haven't given him a chance to respond.

17 MR. LYON: Of course. I understand.

18 THE COURT: There's nothing I can do right now, as far
19 as I'm concerned. On the other hand, let me ask you this: Do
04:16 20 you feel physically threatened, or is this just about putting
21 stuff on You Tube?

22 MR. LYON: I have in the past, not -- not in this last
23 round of communication with him.

24 THE COURT: All right.

25 MR. LYON: But I have in the past.

1 THE COURT: If you feel physically threatened by him,
2 I would suggest going to law enforcement.

3 MR. LYON: I am attempting to do that as well, ma'am.

4 THE COURT: I don't know, are you in California? Is
5 that it?

6 MR. LYON: I'm actually not, but --

7 THE COURT: Don't tell me where you are on the record,
8 please. But, in any event, if you were in Massachusetts,
9 there's a way of getting a restraining order ex parte.

04:16 10 MR. LYON: I am not in the state of Massachusetts, but
11 I understand.

12 THE COURT: What?

13 MR. LYON: I am not in the state of Massachusetts.

14 THE COURT: Most states have something that you can
15 get, a restraining order, if you fear personal violence, so --

16 MR. WISH: Your Honor, I think potentially the issue
17 here is that it is not Mr. DeCastro individually necessarily
18 who I understand Mr. Lyon's concern about a risk from, but any
19 of his supporters.

04:17 20 THE COURT: How do I issue an injunction against
21 somebody I don't know?

22 MR. WISH: I don't know, your Honor, and, again, this
23 isn't my issue. I'm just trying to --

24 THE COURT: No, you're being very helpful, Mr. Wish,
25 but I -- I'm only -- can I say, this all can be raised in front

1 of Judge Burroughs; and, in addition, if there's a true
2 emergency by someone who's a party to the action, I can act.
3 And I suppose, if there's something like witness intimidation
4 or obstruction of justice, one could go to the U.S. Attorney's
5 Office or to law enforcement, but I at this point don't really
6 have a record, so there's nothing I can do. At some point
7 someone is going to create a record for me, as you said,
8 tomorrow, Mr. Wish. You might by Thursday at noon, you might
9 want to include any allegations made by Mr. Lyons, you know, as
04:18 10 part of that record, but I don't have it yet. I can't do it
11 right now. Unless anyone is thinking of something, I just
12 can't do it right now.

13 So I think that's the issue. If you were to -- I
14 don't know where he is, but if he feels in physical danger, he
15 should just go to the police or law enforcement.

16 MR. LYON: I'm actually, after this call, ma'am, I'm
17 actually speaking with federal law enforcement after this call.

18 THE COURT: Yes, thank you, yes, because it may be a
19 federal crime to do some of the things you're alleging. Okay?
04:19 20 So I don't know because I don't have anything on the record,
21 but some of this stuff may be cyberstalking and that kind of
22 thing.

23 So, Mr. Wish, I'm sure you can help them get that
24 number.

25 MR. WISH: Yes.

1 MR. LYON: For the record, I already have been in
2 contact with them. I've been in contact with them for the
3 better part of the day, and I appreciate that. And Mr. Wish
4 has also been very helpful, so thank you, all.

5 THE COURT: And to the extent that you want to file
6 some order or something like that, you can do that. The issue
7 I have is, you're not a party to this lawsuit. So there may be
8 witness intimidation, there may be obstruction of justice, but
9 I certainly need to have the charges on the record under oath
04:19 10 and then give Mr. DeCastro a chance to respond, although I must
11 say he emailed (Inaudible) someone.

12 So, anyway, so I'm here. Judge Burroughs is the
13 assigned judge. She has the hearing on Monday. If there's
14 another emergency, Mr. Wish knows how to find me, right,
15 Mr. Wish?

16 MR. WISH: Yes.

17 THE COURT: Okay, so I think that's it. Is there
18 anything else I can do, now that we've got a schedule set up?

19 MR. WISH: I think that's it for us, your Honor. We
04:20 20 understand we are to have any affidavit or other support in the
21 record for equitable relief on file by this Thursday at noon.

22 THE COURT: Okay. All right, so I guess, unless I get
23 another motion in, or unless I get a motion in, this is the
24 status conference that you requested. And hopefully this can
25 be resolved on Monday, but if there's an emergency before then,

1 well, I'm here. Okay?

2 MR. WISH: Thank you, your Honor.

3 THE COURT: All right, thank you, bye.

4 MR. LYON: Thank you, your Honor.

5 (Adjourned, 4:21 p.m.)

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C E R T I F I C A T E

UNITED STATES DISTRICT COURT)
DISTRICT OF MASSACHUSETTS) ss.
CITY OF BOSTON)

I, Lee A. Marzilli, Official Federal Court Reporter,
do hereby certify that the foregoing transcript, Pages 1
through 12 inclusive, was recorded by me stenographically at
the time and place aforesaid in Civil Action No. 22-11421-ADB,
Jose Maria DeCastro v. Joshua Abrams, et al, and thereafter by
me reduced to typewriting and is a true and accurate record of
the proceedings.

Dated this 19th day of October, 2022.

/s/ Lee A. Marzilli

LEE A. MARZILLI, CRR
OFFICIAL COURT REPORTER